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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/342,017	06/28/1999	MARTIN LAUER	2565/56	5940

26646 7590 03/09/2004

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER

HAYES, MICHAEL J

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 03/09/2004

28

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/342,017

Applicant(s)

LAUER, MARTIN

Examiner

Michael J Hayes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2003.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-15 and 17-32 is/are pending in the application.
4a) Of the above claim(s) 18-32 is/are withdrawn from consideration.
5) ☒ Claim(s) 13-15 and 17 is/are allowed.
6) ☐ Claim(s) _____ is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 28 June 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION***Election/Restriction***

Newly submitted claims 18-32 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the new claims are directed to a connector for sealing a region including a sealing part with base body over which a diaphragm extends and which has an end region directed towards the connecting opening of a connector element where the diaphragm is at a distance from the base body end region. The originally presented claims are directed to a connector element including a conduit.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 18-32 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

This application contains claims 18-34 drawn to an invention nonelected due to constructive election of original claims 13-15 and 17. In Paper No. 24, Applicant traverses the restriction and withdrawal, stating that both sets of claims are directed to a connector element and that “the terms ‘conduit’ and ‘region’ both refer to a means for conveying a flowing medium.” This is not found persuasive because originally presented claims are directed to a connector element having a conduit, outer socket connector (13, 17), inner socket connector (17), penetration body (13, 17), a sealing port not contacting conduit either in the closed or open position (13, 14, 17), a penetration body (13, 14, 17). New claim 18 is drawn to a connector element for connecting to a conduit (i.e., the conduit is not positively claimed). Furthermore, claim 18 recites limitations not found in claims 13, 14, and 17: a sealing part with “a base body

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over whose cross section a diaphragm extends,” and an end region directed towards a connecting opening.

The inventions are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention described by claim 18 has separate utility such as requiring particular limitations not found in claims 13, 14, 17; and claims 13, 14, and 17 require particular limitations not found in claim 18 as described above. See MPEP § 806.05(d). The requirement is still deemed proper and is therefore made FINAL.

This application contains claims 18-32 drawn to an invention independent or distinct from the invention originally claimed. Applicant has received an action on the merits for the originally presented claims. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Allowable Subject Matter

Claims 13-15 and 17 are allowed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

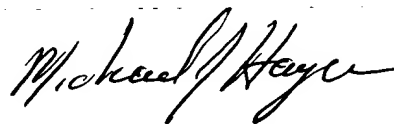
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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Hayes at (703) 305-5873. The examiner can usually be reached Monday -Thursday, 7:00-4:30, and on alternate Fridays. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler, can be contacted at (703) 308-3552. The fax number for submitting official papers is (703) 872-9306.

mjh

4 March 2004

A handwritten signature in black ink, appearing to read "Michael J. Hayes". The signature is fluid and cursive, with the first and last names being more prominent.

MICHAEL J. HAYES
PRIMARY EXAMINER